THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.17957 of 1996

–

Dated 18-01-2007

Between:

P.Lurdamma.

..... PETITIONER

AND

The Correspondent, St. Joseph's Girls High School, Gajwel, Medak District & others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.17957of 1996

ORDER:

Seeking a declaration that she is entitled for absorption in the aided post of School Assistant (Social Studies) in St.Joseph's Girls High School, Gajwel in Medak District, with all consequential benefits and to declare the action of the respondents in seeking to fill up the post of School Assistant (Social Studies) by outsiders as illegal and arbitrary, the present writ petition is filed.

The petitioner was appointed as an SGBT Teacher in the first respondent school on 13-06-1989 in the scale of pay of Rs.1010-1800 till the end of the academic year, 1990. After summer vacation, she was again appointed in the month of June, 1990. She was appointed in the aided post of School Assistant (Social Studies) with effect from June, 1992 consequent to the promotion of one Smt. Chantal, School Assistant (Social Studies) as the Headmistress. It is the petitioner's case that, though she was placed in the time scale of pay and continued to work in the grant-in-aid post of School Assistant (Social Studies), she was paid consolidated pay of Rs.600/- which was later enhanced to Rs.1,300/-. Apprehending that the post of School Assistant (Social Studies) would be filled up by outsiders, the petitioner approached this Court.

This Court initially passed interim orders on 28-08-1996 to continue the petitioner as a school assistant and on a vacate stay petition being filed by the District Educational Officer, Medak District, the interim order was modified, by order dated 12-03-1999, holding that the petitioner was not entitled for regular scale of pay and her salary would be paid by the first respondent-school and that she had no claim against respondents 2 to 4.

In the counter affidavit filed by the District Educational Officer, Medak District, it is stated that all appointments, either to aided or unaided posts, after issuance of G.O.Ms.No.524, dated 20-12-1988, shall be made strictly in accordance with the rules made therein. It is stated that the petitioner was continued on a temporary basis and that she was not entitled for regularisation as her appointment was not in accordance with the rules issued in G.O.Ms.No.524, dated 20-12-1988. It is further stated that her services were not regularised as her appointment itself was not in order even though she was fully qualified for being appointed to the post of school assistant. It is also stated that the management had submitted proposals to fill up the vacant posts and that the matter was entrusted to the Deputy Educational Officer to enquire into the need of the post. Reference is made to Rule 15, in G.O.Ms.No.524, dated 20-12-1988, which requires all appointments to be made through a staff selection committee and through the employment exchange. It is contended that since the petitioner was appointed by the management, without following the recruitment procedure prescribed in G.O.Ms.No.524, dated 20-12-1988 and without the knowledge of the department, she was not eligible for absorption in the aided post of School Assistant (Social Studies) in St.Joseph's School, Gajwel, and that she is not entitled for regularization. Sri Ch.Jagannatha Rao, learned counsel for the petitioner, would submit that in view of the judgment of the Division Bench of this Court in **K.C.High School, Guntur v. Government**

of Andhra Pradesh, Education Department, Hyderabad, teachers, who were appointed contrary to the procedure prescribed in G.O.Ms.No.524 dated 20-12-1988, were required to be considered for appointment and as such the petitioner's case is also required to be considered. Learned counsel would submit that he is not aware as to what transpired subsequent to the division bench judgment of this Court and as to whether the petitioner's case was considered in accordance with the division bench judgment or not.

Learned Government Pleader would plead ignorance of the subsequent events.

The Division bench of this Court in **K.C.High School, Guntur**[1] held thus:

"……Keeping all these considerations in view, we deem it just and proper to dispose of these writ petitions with the following observations:

1. The Government will constitute a committee of officials either region-wise or State-wise which will go into the performance, service record and basic qualifications of the teachers who have been irregularly appointed by the private managements concerned contrary to G.O.Ms.No.524 (Education Rules) dated 20-12-1988. The Managements (Educational agencies) shall produce before the Committee the relevant record and information so as to enable the committee to judge the suitability of the candidates to be continued. Any information available with the Managements with regard to the performance of the teachers so appointed will be placed before the Committee. The Committee shall interview the teachers if deemed necessary. It is however made clear that the Committee shall have due regard to the experience gained by the teachers during this interregnum.

2. The process of scrutiny by the Committee shall be completed within a period of four months from the date of receipt of this judgment.

3. The respondents concerned will extend the benefit of grant-in-aid for the posts held by these teachers, to the teachers found suitable for continuance, with effect from 01-04-1997 provided they have been appointed against clear vacancies and sanctioned posts.

4. As far as those teachers whose appointments were once approved by the competent Officer of Education Department but later on the approval was withdrawn without notice on the ground that the procedure as per Rule 15 had not been followed, they shall be continued unless any subsequent disqualification comes in their way. They shall be paid salaries form out of State funds from 01-01-1997 onwards.

   W.P.No.14316 of 1992 wherein the appointment of P.Ruth Catherine in Salvation Army Elementary School, Vemuru is in issue falls within this category.

5. The above directions will apply mutatis mutandis to non-teaching staff, who were irregularly appointed during the relevant period.

6. For the intervening period during which the teaching/non-teaching staff worked, the Managements are liable to pay salaries and the scale of salary should be worked out as per mutual negotiations.

7. The arrears of salaries as above should be paid or grant-in-aid be released within six months form the d ate of receipt of judgment…..."

Since the sole reason for not considering the case of the petitioner for

regularisation is in view of the fact that her appointment was contrary to the rules prescribed in G.O.Ms.No.524, dated 20-12-1988 and since the Division bench has issued directions with regards appointment of teaching staff to grant-in-aid post, who were appointed contrary to G.O.Ms.No.524, dated 20-12-1988, there shall a direction to the respondents to consider the case of the petitioner, in accordance with the aforesaid directions of the Division bench, provided her case has not been considered already.

The writ petition is accordingly disposed of. No order as to costs.

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18-01-2007

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